

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NATALIE M. SMITH,
Plaintiff,

– against –

UNITED STATES LIABILITY INSURANCE
COMPANY AND U.S. LIABILITY
INSURANCE COMPANY.,

Defendants,

JUANITA MELENDEZ,

Third-Party Defendant.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 29, 2010
P.M. 6
TIME A.M. 5

MEMORANDUM AND
ORDER

10-CV-3940

JACK B. WEINSTEIN, Senior United States District Judge:

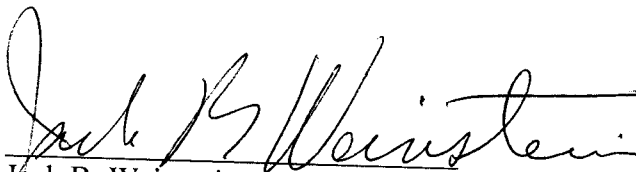
Plaintiff sued for a declaratory judgment against United States Liability Insurance Company in state court. Defendant removed the action to this court. *See* Notice of Removal (Docket Entry 1, August 27, 2010). The Magistrate Judge recommended that the case be remanded to state court for lack of subject matter jurisdiction. *See* Report and Recommendation, 10-CV-3940 (JBW)(LB) (Docket Entry 7, Nov. 17, 2010). Defendant appeals.

For reasons stated at a hearing on December 21, 2010 the report and recommendation is not followed on lack of diversity jurisdiction. A determination regarding plaintiff's standing is deferred pending a judgment by the state court on the underlying liability claim. The case is set for trial on August 8, 2011. A jury is waived.

The parties are directed to keep this court advised of progress in the state suit.

Discovery is stayed pending decision in the state suit. Motions and other pretrial matters will be heard on August 1, 2011 at 10 a.m.

SO ORDERED.


Jack B. Weinstein
Senior United States District Judge

Date: December 21, 2010
Brooklyn, New York